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12
13 UNITED STATES DISTRICT COURT
14
15 NORTHERN DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA,) No. CV 08-3093 WHA

17 Plaintiff,)

18 v.)

19) AMENDED COMPLAINT FOR
20) FORFEITURE

21 1. REAL PROPERTY AND)
22 IMPROVEMENTS IDENTIFIED BY)
23 MENDOCINO COUNTY APN 051-290-04,)
24 051-300-02, 051-310-01, 051-320-01;)

25 2. REAL PROPERTY AND)
26 IMPROVEMENTS IDENTIFIED BY)
27 MENDOCINO COUNTY APN 051-180-08,)
28 051-190-05, 052-010-01, 052-010-02, 052-010-)
29 03, 052-010-09, 052-010-14, 052-010-15, 052-)
30 010-16, 052-010-17 AND HUMBOLDT)
31 COUNTY APN 222-024-003, 222-025-003;)

32 3. REAL PROPERTY AND IMPROVEMENTS)
33 IDENTIFIED BY MENDOCINO COUNTY)
34 APN 051-180-09, 051-180-10.)

35 Defendants.)

36 In this in rem forfeiture action, the United States alleges:

37 JURISDICTION

- 38 1. This Court has jurisdiction under Title 28 U.S.C. Sections 1345 and 1355(a), and Title

1 21 United States Code, Section 881(a)(7).

2 2. This action is timely filed.

3 **PARTIES**

4 3. Plaintiff is the United States of America.

5 4. Defendants are described as follows:

6 a. approximately 960 acres, consisting of rural parcels of real property located in
 7 Mendocino County, identified by Mendocino County Assessor's Parcel Numbers 051-290-04,
 8 051-300-02, 051-310-01, 051-320-01 (hereinafter "defendant Juan CC property"), and more
 9 particularly described in Exhibit A, attached hereto and incorporated in full herein. Robert Juan
 10 is the owner of record for defendant Juan CC property.

11 b. approximately 945 acres, consisting of rural parcels of real property located in
 12 Mendocino County, identified by Mendocino County Assessor's Parcel Numbers 051-180-08,
 13 051-190-05, 052-010-01, 052-010-02, 052-010-03, 052-010-09, 052-010-14, 052-010-15, 052-
 14 010-16, 052-010-17 and rural parcels of real property located in Humboldt County, identified by
 15 Humboldt County Assessor's Parcel Numbers 222-024-003, 222-025-003, (hereinafter "Lost
 16 Paradise property") and more particularly described in Exhibit B attached hereto and
 17 incorporated in full herein. Lost Paradise Land Corporation is the owner of record for defendant
 18 Lost Paradise property.

19 c. rural parcels of real property located in Mendocino County, identified by
 20 Mendocino County Assessor's Parcel Numbers 051-180-09 and 051-180-10 (hereinafter
 21 "defendant Prescott/Sayers property"), and more particularly described in Exhibit C, attached
 22 hereto and incorporated herein. Graeson Prescott and Paul Sayers are the owners of record for
 23 the defendant Prescott/Sayers property.

24 **VENUE**

25 5. Venue lies in the Northern District of California pursuant to Title 28, United States
 26 Code Section 1335(b) and 1335(a) and (b), as the acts giving rise to this in rem action occurred in
 27 this district and the defendant real properties are located in this district.

1 **INTRADISTRICT ASSIGNMENT**

2 6. Intra-district venue is proper in the San Francisco Division within the
3 Northern District of California.

4 **FACTS**

5 7. Plaintiff incorporates by reference the allegations of paragraphs one through six as
6 though fully set forth herein.

7 8. On June 24, 2008, federal law enforcement agents, acting pursuant to duly
8 authorized warrants, executed searches at the properties listed and described above in ¶¶4(a)
9 through (c). During the course of their search of each defendant property agents found evidence
10 of marijuana cultivation operations as described below:

11 9. **Defendant Juan CC property** - During their search of defendant Juan CC
12 property the agents discovered approximately 25 areas that had been cleared and leveled for the
13 primary purpose to facilitate the cultivation of marijuana. On the cleared land, agents found
14 approximately 24 marijuana gardens either in the open air or in structures. These marijuana
15 gardens contained approximately 4,500 marijuana plants in various stages of development.

16 10. The agents also found bags of manure and fertilizer, discarded piles of top soil
17 and fertilizer, water storage and irrigations systems, generators and plastic planter boxes on the
18 defendant Juan CC real property.

19 11. **Defendant Lost Paradise property** - During their search of the defendant Lost
20 Paradise Property agents discovered approximately 35 areas that had been cleared and leveled for
21 the primary purpose to facilitate the cultivation of marijuana. On the cleared land, agents found
22 approximately 33 marijuana gardens either in the open air or in structures. These marijuana
23 gardens contained approximately 6,000 marijuana plants in various stages of development.

24 12. The agents also found bags of manure and fertilizer, discarded piles of top soil
25 and fertilizer, water storage and irrigations systems, generators and plastic planter boxes on the
26 defendant Lost Paradise property.

27 13. **Defendant Prescott/Sayers property**- During their search of the defendant

1 Prescott/Sayers property agents discovered one area on the defendant Prescott/Sayers property
2 that had been cleared and leveled for the primary purpose to facilitate the cultivation of
3 marijuana. In a greenhouse built on the cleared land, agents found approximately 164 marijuana
4 plants in various stages of development.

5 14. The agents also found bags of manure and fertilizer, discarded piles of top soil
6 and fertilizer, water storage and irrigation, an ATV and plastic planter boxes on the defendant
7 Prescott/Sayers real property.

CLAIM FOR RELIEF
21 U.S.C. § 881(a)(7)
(forfeiture of property used to facilitate drug trafficking)

10 15. The United States incorporates by reference the allegations in paragraphs one
11 through fourteen as though fully set forth.

16. Title 21, United States Code, Section 881(a)(7) provides for the
forfeiture of all real property, including any right, title and interest, which is used or intended to
be used, in any manner or part, to commit, or to facilitate the commission of a violation of Title
21, United State Code, Chapter 13, Subchapter I, to include Title 21, United States Code, Section
841(a).

17 17. In light of the foregoing, defendant real properties represent property which
18 facilitated a violation of Title 21, United States Code, Section 841(a)(1)-marijuana cultivation,
19 and is thus subject to forfeiture to the United States pursuant to Title 21, United States Code,
20 Section 881(a)(7).

PRAYER FOR RELIEF

18. The United States has not seized the defendant real properties. The United
States will, as provided in Title 18, United States Code, Section 985(b)(1) and (c)(1):
a. Post notice of this action and a copy of this Complaint for Forfeiture at the defendant

26 b. Serve notice of this action together with a copy of the Complaint for Forfeiture and
27 related documents, on the owners of record of the defendant real properties; and

c. Record a *lis pendens* in the county records for appropriate counties for the defendant Juan CC property, defendant Lost Paradise property, and defendant Prescott/Sayers property to demonstrate the status of the defendant real properties in this *in rem* action.

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

Dated: July 29, 2008

STEPHANIE M. HINDS
Assistant United States Attorney

Assigned to: S. Gray
AUSA Gray

1 VERIFICATION

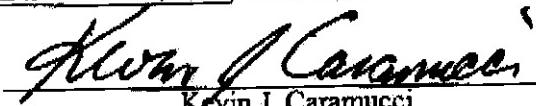
2 I, Kevin J. Caramucci, state as follows:

3 1. I am a Special Agent with the Internal Revenue Service and I am familiar with the
4 facts, and the investigation leading to the filing of this Amended Complaint for Forfeiture.

5 2. I have read the Amended Complaint and believe the allegations contained in it to
6 be true.

7 * * * * *

8 I declare under penalty of perjury that the foregoing is true and correct. Executed this
9 29 day of July, 2008, in Santa Rosa, California.

10 

11 Kevin J. Caramucci
12 Special Agent
13 Internal Revenue Service

Exhibit A

The land referred to herein is situated in the State of California, County of Mendocino, Unincorporated Area, and is described as follows:

Parcel One:

The Northeast quarter of Section 35, Township 5 South, Range 2 East, Humboldt Base and Meridian.

051-290-04

Parcel Two:

The Southeast quarter of Section 35, Township 5 South, Range 2 East, Humboldt Base and Meridian.

051-300-02

Parcel Three:

The North half of Section 36, Township 5 South, Range 2 East, Humboldt Base and Meridian.

051-310-01

Parcel Four:

The South half of Section 36, Township 5 South, Range 2 East, Humboldt Base and Meridian.

051-320-01

Excepting from all the above any portions thereof lying within Humboldt County.

Exhibit B

TRACT I
PARCEL ONE

The Southwest Quarter of the Northeast Quarter and those portions of the West half of the Southeast Quarter of Section 20, Township 5 South, Range 3 East, Humboldt Base and Meridian, lying North of the Humboldt and Mendocino County Line.

A.P. No. 222-025-003

PARCEL TWO

All that portion of the Southeast Quarter of Section 19, Township 5 South, Range 3 East, Humboldt Base and Meridian, lying North of the Humboldt and Mendocino County line.

A.P. No. 222-024-003

The following additional parcel or parcels has/have appeared in a recorded document or documents describing the land referred to in this preliminary report/commitment. No insurance will be provided as to these parcels, but the parties to the transaction contemplated by this preliminary report/commitment may wish to consider whether these parcels should be included in the documents to be recorded:

PARCEL THREE

That portion of the South Half of the Southwest Quarter of Section 20, Township 5 South, Range 3 East, Humboldt Meridian, lying within Humboldt County.

Assessed in Mendocino County.

PARCEL FOUR

A perpetual non-exclusive easement over and across and upon the existing roads located upon Grantors land within Sections 27, 28, 29 and 34 in Township 5 South, Range 3 East, Humboldt Meridian, Mendocino County, California as indicated on Exhibit "B", Grantor grants the right to use and maintain and reconstruct this road as may be necessary for Grantee's use in keeping within requirements and guidelines of Grantor and governing jurisdictions. This grant of easement shall serve and be appurtenant only to the lands described in Tract One, Two and Three above and any other lands contiguous thereto owned or hereafter acquired by Grantee in Mendocino and Humboldt Counties and may not be otherwise assigned or transferred. Such easement will be used exclusively for the management, use or operation of the lands as commercial timberlands, including but not limited to the removal of logs, timber and other forest products therefrom.

PARCEL FIVE

An easement across the South Half of the Northwest Quarter, the Northeast Quarter of the Northwest Quarter, the Southwest Quarter and that part of the West Half of the Southeast Quarter, lying West of the State Highway and West of the West line of the lands described in the Deed recorded April 9, 1991 in Book 1897, of Official Records at page 485, and recorded May 2, 2000 as Document No. 2000-6792, Mendocino County Records of Section 35, Township 5 South, Range 3 East, Humboldt Meridian as reserved by Rex Timber in the Deeds to Eva L. Anderson, et al recorded October 13, 1987, in Book 1650, Page 327, Mendocino County Records and recorded July 13, 1988 in Book 1696, Page 357, Mendocino County Records.

The Rights granted in Tracts Four and Five above do not reduce rights held through these other Agreements.

A.P.N. 222-025-003

TRACT II

Tract One:

That portion of Lot 4 and of the Southeast quarter of Southwest quarter of Section 19, Township 5 South, Range 3 East, Humboldt Meridian, lying within Mendocino County.

APN: 052-010-01

Tract Two:

Lots 2, 3 and 4 of Section 30, Township 5 South, Range 3 East, Humboldt Meridian and that portion of the East half of the Southeast quarter and the North half of the Northeast quarter of Section 25, Township 5 South, Range 2 East, Humboldt Meridian lying East of the centerline of Sebbas Creek.

APN'S: 052-010-17, 051-180-08 and 051-190-05

Tract Three:

The Northwest quarter of the Southeast quarter of the Northeast quarter of Section 30, Township 5 South, Range 3 East, Humboldt Meridian.

APN: 052-010-15

Tract Four:

The Northeast quarter of the Northeast quarter of Section 30, Township 5 South, Range 3 East, Humboldt Meridian.

APN: 052-010-16

Tract Five:

South half of Southeast quarter of Northeast quarter; The Southeast quarter of the Northwest quarter; The Northeast quarter of the Southwest quarter; The Southwest quarter of the Northeast quarter; and The West half of the Northwest quarter of the Northeast quarter of Section 30, Township 5 South, Range 3 East, Humboldt Meridian.

APN: 052-010-14

Tract Six:

Non-exclusive easement for roadway purposes conveyed to Mendocino Investment Co. by Grant Deed recorded June 2, 1995 in Book 2256 of Official Records at page 84, Mendocino County Records, which was granted as an appurtenance to a portion of the lands described above with other lands.

Tract Seven:

Non-exclusive easement for the purposes as stated in the Reciprocal Easement Agreement recorded March 4, 1996 in Book 2314 of Official Records at page 382, Mendocino County Records and February 8, 1996 in Document No.: 1996-3424-8 of Official Records of Humboldt County, over the easement area as described therein.

Tract Eight:

Non-exclusive easements for roadway purposes described in easement agreement recorded April 20, 2001 under Series #2001-06779, Mendocino County Official Records.

Tract Nine:

Non-exclusive easements for roadway purposes described in reciprocal forestry road easement agreement recorded June 28, 2001, under Series # 2001-12075, Mendocino County Official Records.

Tract Ten:

Non-exclusive easements for roadway purposes described in easement agreement recorded December 30, 2003 under Series # 2003-34005, Mendocino County Official Records.

Tract Eleven:

Parcel One:

That portion of the Southeast quarter of Section 19 lying within Mendocino County; that portion of the West half of the Southeast quarter and the South half of the Southwest quarter of Section 20 lying within Mendocino County; and Lot 1 and the Northeast quarter of the Northwest quarter of Section 30, all in Township 5 South, Range 3 East, Humboldt Meridian.

APN'S: 052-010-02, 03, 09

* * * * *

A perpetual, non-exclusive easement over and across and upon the existing roads located upon Grantor's land within Sections 27, 28, 29 & 34, Township 5 South, Range 3 East, Humboldt Meridian, Mendocino County, California as indicated on Exhibit "B". Grantor grants the right to use, maintain and reconstruct this road as may be necessary for Grantee's use in keeping within requirements and guidelines of Grantor and governing jurisdictions. This grant of easement shall serve and be appurtenant only to the lands described in Tract One above and any other lands contiguous thereto owned or hereafter acquired by Grantee in Mendocino and Humboldt Counties and may not be otherwise assigned or transferred. Such easement will be used exclusively for the management, use or operation of the lands as commercial timberlands, including but not limited to the removal of logs, timber or other forest products therefrom, all as disclosed by Instrument recorded February 13, 2003 under Series # 2003-03924, Mendocino County Official Records.

Parcel Three:

An easement across the South half of Northwest quarter, the Northeast quarter of the Northwest quarter, the Southwest quarter, and that part of the West half of the Southeast quarter, lying West of the State Highway and West of the West line of the lands described in the Deed recorded April 9, 1991 in Book 1897 of Official Records at Page 485 and recorded May 2, 2000 as Document No. 2000-6792, Mendocino County Records of Section 35, Township 5 South, Range 3 East, Humboldt Meridian as reserved by Rex Timber in the Deeds to Eva L. Anderson, et al recorded October 13, 1987 in Book 1650, Page 327, Mendocino County Records and recorded July 13, 1988 in Book 1696, Page 357, Mendocino County Records.

The rights granted in Tracts Two and Three above do not reduce rights held through these or other Agreements.

Parcel Four:

Non-exclusive easements for roadway purposes described in easement agreement recorded December 30, 2003 under Series # 2003-34005, Mendocino County Official Records.
A.P.N. 051-180-08

Timber Reservation and Seller's Limited Right of Ingress and Egress

Seller reserves the right to remove all of the coniferous and deciduous timber located on Seller's current Timber Harvest Plan Permits on the property described in Exhibit "A" until December 31, 2005. Seller shall be responsible for compliance with all Timber Harvest Plan Permit conditions, including, but not limited to reforestation requirements. *and Exhibit "B"

Seller shall be allowed limited ingress and egress across roads on the Property, to access approximately property owned by Seller. The limited purpose of ingress and egress by Seller is for purposes of harvesting trees from the Property in accordance with Timber Harvest Permits Seller currently holds. This limited right of ingress and egress by Seller shall expire on December 15, 2005. The parties hereto agree that from and after December 15, 2005, Seller will have no right of access or easement of any kind, on any portion of the Property, including without limitation, easement by necessity, except to perform the mandatory maintenance and reforestation as set forth in the Seller's current Timber Harvest Permits. Seller agrees that he will be responsible for all Timber Harvest Permit reforestation responsibilities. As partial consideration for this limited right of ingress and egress granted by Purchaser to Seller, Seller agrees that from and after December 15, 2005, he will make no claim for any such continuing right to enter upon the Property, and he will not make any claim of any type of easement on the Property, except for reasons mentioned above. Seller agrees that he will be subject to specific performance of this provision, and will be subject to injunctive relief for any breach of this provision.

Exhibit C

Tract One

That portion of the South half of the Northeast quarter of Section 25, Township 5 South, Range 2 East, Humboldt Meridian, lying East of the center line of Sabba Creek.

APN 51-180-x05 and x06

The legal description contained herein is given pursuant to Mendocino County Boundary Line Adjustment B#5-2004, disclosed by Instrument recorded December 7, 2004 as 2004-27111, Mendocino County Records.

Reserving therefrom, non-exclusive easements for roadway purposes over the existing roads.

Tract Two:

Non-exclusive easement for roadway purposes conveyed to Mendocino Investment Co. by Grant Deed recorded June 2, 1995 in Book 2256 of Official Records at Page 84, Mendocino County Records, which was granted as an appurtenance to a portion of the lands described above with other lands.

Tract Three:

Non-exclusive easement for the purposes as stated in the Reciprocal Easement Agreement recorded March 4, 1996 in Book 2314 of Official Records at Page 382 Mendocino County Records and February 8, 1996 in Document No. 1996-3424-B of Official Records of Humboldt County, over the easement area as described therein.

Tract Four:

Non-exclusive easements for roadway purposes described in instrument recorded October 30, 2000 as 2000-18082, Mendocino County Records.

Tract Five

Non-exclusive easements for roadway purposes described in instrument recorded December 30, 2003 as 2003-34005, Mendocino County Records.